



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/595,396	08/17/2006	Irene Corthesy-Theulaz	112701-722	8622				
29157 K&L Gates LLP P.O. Box 1135 CHICAGO, IL 60690	7590 06/02/2009		<table border="1"><tr><td>EXAMINER</td></tr><tr><td>LEAVITT, MARIA GOMEZ</td></tr></table>		EXAMINER	LEAVITT, MARIA GOMEZ		
EXAMINER								
LEAVITT, MARIA GOMEZ								
			<table border="1"><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>1633</td><td></td></tr></table>	ART UNIT	PAPER NUMBER	1633		
ART UNIT	PAPER NUMBER							
1633								
			<table border="1"><tr><td>NOTIFICATION DATE</td><td>DELIVERY MODE</td></tr><tr><td>06/02/2009</td><td>ELECTRONIC</td></tr></table>	NOTIFICATION DATE	DELIVERY MODE	06/02/2009	ELECTRONIC	
NOTIFICATION DATE	DELIVERY MODE							
06/02/2009	ELECTRONIC							

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

***Detailed Action***

The reply filed on 02-20-2009 is not fully responsive to the prior Office Action of 10-21-2008 because of the following omission(s) or matter(s): Claims 1-3 and 5-11 drawn to elected subject matter have been amended such that they are no longer drawn to the subject matter of Group I, which applicant has indicated is the elected Group in Applicants' response filed on 07-21-2008. Elected Group I, i.e., claims 1-3 and 5-11, in the office action mailed on 05-19-2008, is drawn to a **yeast extract product** used in the manufacture of an oral composition to treat the effects of infection by enterotoxin-producing pathogens. Moreover, examination of the elected claims 1-3 and 5-11 drawn to a product is further evidenced in the previous office action of 10-21-2008. However, amended claim 1 is drawn to methods of producing a yeast extract comprising the step of using yeast to produce a composition comprising 0.01 to 0.5% by volume which do not read on the elected invention of Group I. Moreover, amended claims 2, 3 and 5-11 depending on claim 1, do not read on the elected invention of Group I, as these amended claims are also drawn to methods. It is noted that Group II, i.e. claims 12-18, of the office action mailed on 05-19-2008, is drawn **a method of producing a yeast extract** comprising the step of using yeast to produce a composition comprising 0.01 to 0.5% by volume. Also note that amendment of the subject matter in a claim does not affect the restriction requirement prepared by the examiner on the original claims and accordingly examined in the action of 10-121-2008. In other words, amending claims 1-3 and 5-11 such that they are no longer product claims, but are instead method claims, does not change the original restriction requirement which identified Group I as the invention drawn to a **yeast extract product**. Thus, there are no claims currently pending that are drawn to the elected subject matter of Group I and available for examination. See 37 CFR

1.111. The claims would have to be amended to recite a product, not a method. Any further claim amendment must contain at least one claim drawn to the elected invention to be considered responsive. If applicant wishes to pursue a different invention from that elected in this application, the applicant is invited to file a divisional application. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Leavitt whose telephone number is 571-272-1085. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Weitach, Ph.D can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1633; Central Fax No. (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete

Art Unit: 1633

service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

/Maria Leavitt/

Maria Leavitt, PhD

Examiner, Art Unit 1633